

## Honorable Ronald B. Leighton

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

THOMAS EDWARD DESKINS, )  
v. Plaintiff, ) No. C08-5127 RBL  
CITY OF BREMERTON, et al., )  
Defendants ) PLAINTIFF'S AMENDED UNOPPOSED  
 ) MOTION TO FILE AN OVERLENGTH  
 ) BRIEF IN RESPONSE TO  
 ) DEFENDANT/TROOPER HEDSTROM'S  
 ) MOTION FOR PARTIAL SUMMARY  
 ) JUDGMENT, AND ORDER

Noted for Consideration: March 31, 2009

COMES NOW the plaintiff, Thomas Edward Deskins, by and through his attorney, John R. Muenster, and moves this Honorable Court for an order granting plaintiff leave to file an overlength brief in opposition to defendant/Trooper Hedstrom's motion for partial summary judgment, due to the number of issues which needed to be addressed.

In support of this motion, the following is shown:

**PLAINTIFF'S AMENDED MOTION TO FILE  
OVERLENGTH BRIEF - 1**

**MUENSTER & KOENIG**  
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1                   (1) Undersigned counsel contacted counsel for defendant/Trooper Hedstrom, Ken Orcutt,  
2 via telephone on Monday, March 30<sup>th</sup>, about this motion. Mr. Orcutt advised the undersigned that he  
3 did not oppose the motion.

4                   (2) Plaintiff's response has been prepared and was filed yesterday, March 30, 2009,  
5 Document No. 51.

6                   (3) The following issues were briefed:

- 7                   (a) The traffic stop of Mr. Deskins was unreasonable under the Fourth  
8                   Amendment;
- 9                   (b) Defendant Hedstrom did not have reasonable suspicion to stop Mr. Deskins for  
10                  driving under the influence;
- 11                  (c) Mr. Deskins was arrested when the police drew their guns and aimed their guns  
12                  at him;
- 13                  (d) Trooper Hedstrom lacked grounds to arrest Mr. Deskins under RCW  
14                  46.61.021;
- 15                  (e) The trooper was not authorized to detain Mr. Deskins under RCW  
16                  46.61.021(2);
- 17                  (f) Trooper Hedstrom did not have probable cause to arrest Mr. Deskins for  
18                  obstructing;
- 19                  (g) Trooper Hedstrom did not have probable cause to arrest Mr. Deskins for  
20                  driving under the influence;
- 21                  (h) Trooper Hedstrom used excessive force by pointing her firearm at Mr.  
22                  Deskins;
- 23                  (i) Analysis of the use of force principles of analysis under *Graham v. Connor*;
- 24                  (j) Trooper Hedstrom is liable for Officer Mayfield's use of the taser;
- 25                  (k) Trooper Hedstrom is not entitled to qualified immunity;

(1) The constitutional rights at issue were clearly established.

Based on the foregoing, undersigned counsel requests that the Court enter the attached proposed order granting permission to file the overlength brief, Document No. 51.

DATED this the 31<sup>st</sup> day of March, 2009.

Respectfully submitted,

MUENSTER & KOENIG

By: S/John R. Muenster

JOHN R. MUENSTER  
WSBA No. 6237  
Attorney at Law  
Of Attorneys for Plaintiff Thomas Edward Deskins

ORDER

The Court has reviewed plaintiff's unopposed motion to file an overlength brief in response to defendant/Trooper Hedstrom's motion for partial summary judgment. The Court finds that the requested relief is appropriate. Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to file an overlength brief in response to defendant/Trooper Hedstrom's motion for partial summary judgment be, and the same hereby is, granted; and

IT IS FURTHER ORDERED that the overlength brief shall be received and filed.

DATED this 1<sup>st</sup> day of April, 2009.

of April, 2009.  
Ronald B. Leighton  
RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE

**PLAINTIFF'S AMENDED MOTION TO FILE  
OVERLENGTH BRIEF - 3**

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1 Presented by:

2 MUENSTER & KOENIG

3 By: S/John R. Muenster

4 John R. Muenster

5 Attorney at Law

6 WSBA No. 6237

7 Of Attorneys for Plaintiff Thomas Edward Deskins

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27 PLAINTIFF'S AMENDED MOTION TO FILE  
28 OVERLENGTH BRIEF - 4

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